

Make a will when you're buying your love nest

To mark National Marriage Week solicitor Jacqueline Emmerson warns homebuyers of the long-term implications of buying a home together without being married.



WHEN thinking about moving into a property with a partner, you may ask: "Does it matter if we aren't married?"

Time and time again, we come across the following scenario - a couple start to live together in a house owned by one of them. For example, the girlfriend moves into the boy's house. The property is not transferred into joint names but suddenly, the boyfriend dies. The girl goes to a solicitor to have the house transferred to her sole name.

Because the boyfriend never made a will and the couple didn't have children, the house would pass to the boyfriend's next of kin - usually his parents.

If the girlfriend wanted to stay in the house, she would have to contest this and prove to a court that she had been wholly or

partially maintained by her deceased partner and he had not made reasonable provision for her. The court would take into consideration the girlfriend's salary. If this was the same as or more than her boyfriend's her claim might fail and she would have to pay expensive court proceedings.

This is not an unusual story. As more and more people live together without marrying and leaving a proper will, this type of case is becoming common.

Another common scenario,

particularly with first-time buyers, is that a couple buy a new home as 'joint tenants'. Most couples do this, and it means that if, for instance, the girlfriend died the house would automatically go to the boyfriend - this is called 'survivorship'. It would happen even if the deceased person's will stated otherwise.

However, if the girlfriend wanted some of her equity from the house to go elsewhere, this would have to be specified in a Deed of Trust when buying the house. You should advise your solicitor at the buying stage what is to happen to your home upon your death. You should also make a will.

The majority of estates we are dealing with at present are complicated because the deceased failed to make a will, or made one that didn't provide for all relevant people.

Also, parents who have children from more than one relationship must sort out who will inherit their home, including their new partner and their children.

There is much more to buying a home than people think, it's about ensuring that once you've decided who you want the home to go to when you die these decisions cannot be contested after you're gone.

Putting aside the issue of

death, you should specify the share of the property that each of you is to own, especially if one of you contributes a greater share of the purchase price than the other. This could become very important if you later split up or one of you is facing bankruptcy.

While none of the above are happy events, they do crop up regularly and a little planning at the buying stage could avoid a lot of heartache and expense later.

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